



NON-ACADEMIC MISCONDUCT POLICY AND PROCEDURES

Policy Statement	This policy and procedures support: TEQSA Higher Education Standards Framework (Threshold Standards) 2015 and Standards of Registered Training Organisations 2015.
Responsibility for Implementation	Executive Manager Student and Campus Services, Manager Student Services
Compliance and Monitoring	Executive Manager Student and Campus Services, Executive Manager Risk & Compliance/Governing Board Secretary

Purpose

Kent's goal is to be a diverse, dynamic and welcoming learning community. Kent is committed to promoting a safe, respectful and supportive learning and working environment. As part of the Kent Community, each Student is responsible for their personal conduct as it affects the Kent Community, Kent Activities and Kent's property. Students who are on Kent property and/or participating in a Kent Activity are expected to assume responsibility for their actions, ensure lawful personal conduct, and respect the rights, privileges and safety of others.

Scope

This policy applies to:

1. All students who are enrolled to undertake studies at Kent, including Higher Education, VET, Non-Award or cross institutional courses or units.
2. All Kent Staff with reference to the promotion of appropriate student conduct and implementation of Non-Academic Misconduct Policies and Procedures.

Aim

To ensure all Kent Student and Staff understand the importance of appropriate Student conduct; to help foster a campus community characterised by accountability, respect, fairness, and safety; to identify what constitutes Non-Academic Student Misconduct; to set out transparent processes for submitting, investigating and resolving allegations of Non-Academic Misconduct; and to articulate the rights and responsibilities of Students involved in Non-Academic Misconduct proceedings.

Definitions

In this Policy:

Complainant means an individual who makes an allegation of Non-Academic Misconduct.

Kent Activity includes any activity that is directly connected to the operations of Kent at any location, or any activity where a Student or Student group is formally representing Kent.

Kent Community means:

- a) Current Kent students;
- b) Kent employees;
- c) Anyone holding an appointment at Kent;
- d) Anyone contractually required to abide by Kent policies;
- e) Anyone volunteering with a Kent program or activity; and
- f) Members of the Governing Board

Non-Academic Misconduct

Non-Academic misconduct may include but is not limited to the following examples:

- a) Minor or repeated disturbances during academic activities (face to face or online) that interfere with the freedom of a student or limits the capacity of an academic staff member to fulfil their duties.
- b) Minor disturbances in any Kent venue or Kent Activity that represent immature, boisterous, disrespectful or childish behaviour that is disruptive or offensive.
- c) First instances of breaking, ignoring or being unaware of Kent or Internship Host rules or the Kent Code of Conduct (dependent on the nature of the rule broken or ignored).
- d) Behaving in an unsafe manner in any Kent venue or Kent activity.
- e) Behaviour that causes offence whether intentional or otherwise.
- f) Smoking on Kent property or during a Kent Activity.
- g) Showing disrespect to Kent staff or other students (including via social media or other online activities).
- h) Showing disrespect to members of the public when acting on behalf of Kent (e.g. professional experience supervisors).
- i) Bullying or harassing behavior, including (but not limited to) cyber-bullying, assault, intimidation or displaying aggression towards others at any time during academic activities, when representing Kent publicly or when on campus.
- j) Interfering with, causing willful or negligent damage to, or defacing any Kent Property.
- k) Theft of Kent property or any personal property from other individuals or organisations on Kent property.
- l) Attending Kent Activities (including academic and non-academic activities) under the influence, or being in possession of alcohol, drugs or any other prohibited substance.
- m) Attending Kent premises or activities (including academic and non-academic activities) with weapons or items likely to cause harm or intimidation to others at any time.
- n) Discriminating against anyone on the grounds of gender identity, sexual orientation, marital, parental or carer status, pregnancy, breastfeeding, age, physical features, impairment, race, ethnicity, political or religious belief or activity, or industrial activity.
- o) Engaging in fraudulent or intentionally deceptive activity.
- p) Willful, violent or unsafe behavior.
- q) Repeated instances of breaking, ignoring or being unaware of Kent or Internship Host rules or the Kent Code of Conduct.

Participant means an individual who participates in a proceeding connected to a Student Non-Academic Misconduct allegation.

Respondent means a Student who is alleged to have violated this policy.

Student includes a person who was an enrolled student at Kent at a time when he or she is alleged to have engaged in Non-Academic Misconduct.

Support Person means someone who provides support or advice to a Complainant, Respondent, or witness during a Non-Academic Misconduct proceeding.

Scope

This policy does not address Academic Appeals or matters related to Academic Misconduct as set out in the Academic Misconduct Policy & Procedures.

Kent will respond to allegations of Sexual Misconduct involving students in accordance with the Sexual Misconduct Prevention and Response Policy & Procedures.

Kent may take action beyond the scope of this policy where it is reasonably believed that immediate action is required to:

- a) protect the health or safety of any individual or the Kent Community;
- b) prevent damage or destruction of Kent's property, infrastructure or assets; or
- c) remove a Student from Kent property, limit a Student's use of the property, or impose other interim measures where there is a high potential of risk to themselves or others posed by the Student's continued presence.

In such cases, Kent may follow the Critical Incident Policy & Procedures and/or other applicable Kent policies and practices depending on the nature of the misconduct and its effects.

Kent may undertake proceedings under this policy where the matter is also being investigated or reviewed by a law enforcement agency or authority external to Kent. If Kent's investigation determines that the Non-Academic Misconduct Policy has been violated, Kent may apply sanctions against a Student, regardless of any other discipline applied externally.

No aspect of this policy will prevent Kent from referring a matter to an appropriate law enforcement agency as required.

Kent is committed to providing clear and transparent processes in all proceedings involving allegations of Non-Academic Misconduct and is committed to implementing the principles of natural justice and procedural fairness in the resolution of allegations under this policy.

2.0 Procedures

2.1 Prevention

Kent recognises its responsibility to take measures to prevent Non-Academic Misconduct within the Kent Community through Student Education.

Students will be made aware of what constitutes non-academic misconduct. This information will be made available to them via:

- Orientation Program presentations
- Kent Student Handbook
- Kent website
- Kent Weekly Newsletter
- Student Engagement and Wellbeing Workshops
- Kent staff in terms of their promoting of appropriate student conduct and management of Non-Academic Misconduct for students.

2.1 Informal Resolution

Kent recognises that many disputes or incidents can be resolved informally by mutual agreement without submitting an allegation under this policy. Wherever possible, members of the Kent Community are encouraged to use respectful and direct communication to resolve such disputes or incidents informally by way of apology, conciliation, education, consultation, or mediation. Kent Community members may seek advice from the Executive Manager, Student and Campus Services for matters involving Students.

2.2 Submission of an Allegation of Non-Academic Misconduct

Kent recognises its responsibility to diligently investigate allegations of Non-Academic Misconduct. Where informal processes are conducted, but do not result in a resolution, then Kent may revert to a formal process.

Where informal resolution is not possible or appropriate, a Kent Community member who believes that a Student has committed Non-Academic Misconduct may:

1. Report an allegation verbally or in writing to any Kent staff member.
2. As soon as practicable, the breach should be reported using the Non-Academic Misconduct Incident Report Form by either the person making the allegation, or the Kent staff member to whom the allegation was made.

The Non-Academic Misconduct Incident Report Form will be presented to the Manager Student Services for investigation. If it is determined that there is a case to answer, the Manager Student Services will give notice of the allegation to the student against whom the allegation has been made. The allegation notice must:

- provide details of the alleged misconduct;
- state the relevant section(s) of this policy that are alleged to have been breached;
- explain the process that will be followed and
- include a copy of this policy

The student will be sent correspondence by the Manager Student Services with an invitation to respond in writing to the allegation of a Non-Academic Misconduct. The student is required to respond within five (5) working days of the date of the invitation. Any response from the student will then be taken into account by the Manager Student Services in investigating the matter.

During the investigation, the Manager Student Services may, in accordance with the principles of natural justice and procedural fairness, conduct hearings, authorise investigations, and seek written or oral submissions from anyone who the Manager believes can assist in his/her deliberations by way of evidence or expert opinion.

During the investigation, all parties have the following rights:

- to be invited to make an appearance before parties convened to hear the allegation and respond to questions
- to be accompanied and assisted by a support person chosen by them at such a meeting but may not have legal representation
- to receive and respond to any documentation concerning them, that is submitted in connection with an allegation
- to have an allegation treated confidentially with details only disclosed with permission, unless Kent has reasonable grounds for believing the information will be a threat to the life or health of any person, or the disclosure is authorised by law to be given a copy of outcomes and reasons in writing by the Executive Manager, Student and Campus Services

On reaching a decision regarding the allegation, the Manager Student Services may:

- dismiss the allegation and advise all relevant parties of the reasons for dismissing the allegation
- or
- find the allegation proved
 - recommend a penalty and/or further action
 - advise the Executive Manager, Student and Campus Services of the proposed penalty or course of action, who may approve the recommendations or refer the case back to the Student Services Manager for further investigation.

If the allegation is considered proven, the Executive Manager, Student and Campus Services will make an order to apply the following penalties as appropriate to the nature of misconduct in question:

- reprimand the student
- impose a probationary enrolment, provisional on the student's good behaviour
- suspend the student from accessing or using all or any specified Kent facilities or services for a specified period not exceeding six months
- refuse or cancel credit for any course
- refuse an application for admission or readmission
- exclude the student and report students holding an International Student Visa to the Department of Home Affairs (DHA)
- refer the case to authorities
- recommend the revocation of an award to Governing Board.
- nominate any other remedial action that appears appropriate given the nature and seriousness of the offence

In making an order to apply an appropriate penalty, the Executive Manager, Student and Campus Services must apply a penalty that is proportionate to the misconduct and having regard to what is just in all the circumstances.

The Executive Manager, Student and Campus Services will communicate the outcomes of the investigation, including penalties, to all involved parties within twenty (20) working days of receipt of the student's response to the allegation on Non-Academic Misconduct:

- verbally to relevant parties where appropriate
- in writing to the student (email to the student's Kent email address) against whom the allegation is proven (copy placed on the student's file).

When advising the student against whom the allegation of misconduct has been found proven, the Executive Manager, Student and Campus Services, will include the following information:

- the details of the allegation
- the reasons / evidence on which the allegation is proven
- the penalties imposed, including timeframes
- the student's right of appeal as per the *Kent Complaints and Appeals Policy and Procedures*
- a copy of the *Kent Complaints and Appeals Policy and Procedures*.

3.0 Appeals Process

A Kent student may appeal against a decision in regard to Non-Academic Misconduct. Students have access to Kent's Complaints and Appeals process by referring to the *Complaints and Appeals Policy and Procedures* (<https://kent.edu.au/kent3/wp-content/uploads/policy-complaints-and-appeals-policy-procedures.pdf>). A Student Complaints & Appeals Form (<https://kent.edu.au/kent3/wp-content/uploads/form-student-complaints-appeals-form.pdf>) must be lodged with twenty (20) working days from the notification date of the Kent decision.

4.0 Records and Reporting

Records of all cases of Student Non-Academic Misconduct will be maintained in strict confidence in the student's file on the Kent Student Information System (SIS). The Executive Manager, Student and Campus Services will record all details on the Non-Academic Misconduct Register.

The Executive Manager Risk and Compliance/Governing Board Secretary may report matters arising from the Risk Register and Internal Audit Schedule through the standard reporting requirement to the Audit & Risk Management Committee.

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